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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,770	04/21/2004	Reid L. Wissler	23902-00004	5246

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FOSTER, SWIFT, COLLINS & SMITH, P.C.  
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LANSING, MI 48933

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/828,770

Applicant(s)

WISSLER ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 9, 12-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Status of Application**

1. Applicant's amendment, filed Sept. 6, 2006, has been entered in the application. Claims 8, 9, and 12-15 are pending; claims 1-7, 10 and 11 have been canceled.

### **Claim Rejections - 35 USC § 103**

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 8, 9, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wieschel (US 3,073,458) in view of Senelet (US 3,871,685).  
Wieschel teaches a vehicle having an outrigger assembly comprising an elongated housing (16) having an open end and pivotally attached (21) to the vehicle with an opposite end extending beyond the vehicle side (note figure 4), wherein pivotal motion thereof may be actuated by a double acting hydraulic cylinder (25, 26); an extendible-retractable beam (17) mounted in the housing and arranged to be operated by a further double acting cylinder (32, 34); a jack tower connected to the beam end including a first component connected to the beam (41) and a further component (38) telescopically (in this case through a threaded connection) connected to the first component, the further component having a ground-engaging pad (37, 39) connected to a lower end. The reference to Wieschel fails to teach an actuator for the further component (38) wherein the jack tower comprises a hydraulic cylinder, and is positioned at a non-orthogonal angle to the extendible beam, and wherein the engaging pad is pivotally connected to the lower end of the further component. Senelet teaches a leveling arrangement which may be placed at the end of a telescopic beam (11), including a foot (8) pivotally attached (23) to a telescopic rod end of a leveling device (24), housed in a jack tower (22) positioned at an angle different from 90 degrees with respect to the beam (figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the manually adjustable jack tower taught by Wieschel with the adjustable jack tower taught by Senelet, positioned at a non-orthogonal angle to the beam, for the purpose of allowing all aspects of the leveling of the vehicle to be controllable remotely by an operator (i.e., thus avoiding manual adjustment of the pad at

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the jack tower), to reduce set-up time. The reference to Senelet fails to explicitly teach the use of a hydraulic double acting cylinder, however in view of Wieschel's teaching of the use of double-acting hydraulic cylinders, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a hydraulic double acting cylinder for operation of the jack tower element as well, for the purpose of using components of the same type for each actuable degree of freedom of the combined mechanism.

As regards the provisioning of the non-orthogonal angle, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the jack tower at a non-orthogonal angle for the purpose of slightly widening the stance of the vehicle when leveled, thus improving stability. The references to Wieschel and Senelet fail to specifically teach the angle of the jack tower, however when the prior art teaches a general condition (i.e., the jack tower at an angle other than 90 degrees), it is not deemed to be beyond the skill of the ordinary practitioner to adjust a taught configuration to optimize its operation, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the jack tower angle to an angle between 5 and 20 degrees for the purpose of optimizing the vehicle stance, while not extending the pad portion outwardly to an unacceptably wide position.

As regards claim 15, the references fail to specifically teach the provision of the leveling devices on a fire engine with aerial ladder, however inasmuch as it is well known to provide leveling devices on fire engines with aerial ladders, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the leveling device taught by Weischel as modified by Senelet on a fire engine with an aerial ladder for the purpose of providing a stable base to promote the safe use of the ladder at substantial extension.

### **Response to Comments**

4. Applicant's comments, filed with the amendment, have been carefully considered. Applicant has noted that Senelet fails to explicitly teach the use of a hydraulic cylinder. The examiner agrees, and apologizes for previously asserting the

presence of a hydraulic cylinder, which was not an accurate depiction of Senelet's teaching. Applicant's further comments concerning the possible jack devices used by Senelet are noted but are not persuasive. Note that Senelet is directed to the support and stabilization of a self-propelled crane (col. 2, lines 41-52). While a manufacturer of such cranes may consider the use of the light duty jack devices applicant has suggested, the success of such devices would appear to be questionable. It is not inherent that a self-propelled <sup>crane</sup> would employ a hydraulic cylinder system for a jack, but such an employment may indeed be likely. Also note Senelet at col. 3, lines 52-53, where, referring to another extendible element of the stabilization system, the reference discloses a "rod and cylinder" of a jack, though this is not deemed sufficient to support the notion that the Senelet reference *explicitly* teaches a hydraulic cylinder device on its own. Wieschel does, however, teach the use of double acting cylinders in controlling the motion of the various portions of the support mechanism, and as such, since Wieschel already teaches that the use of a hydraulic double acting cylinder is quite well known and has been so for some time, it is not deemed to be beyond the skill of the ordinary practitioner to use the same type of actuator (i.e., the double acting hydraulic cylinder) for each adjustable portion of the stabilization mechanism.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### Conclusion

5. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

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Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

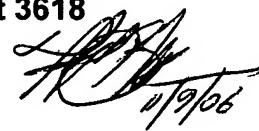
A response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**

Handwritten signature of F. Vanaman, dated 11/9/06.